

REMARKS

In response to the Non-final Office Action mailed May 9, 2005, claims 11, 14, 15, 26, 39, 45 and 46 have been cancelled and claims 1-10, 12, 13, 16-25, 27-38 and 40-44 have been amended. Claims 1-10, 12, 13, 16-25, 27-38 and 40-44 are now active in this application, of which claims 1 and 25 are independent.

Based on the attached Amendments and the following Remarks, Applicants respectfully request that the Examiner reconsider the outstanding objections and rejections and they be withdrawn.

Drawing Objection

In the Office Action, drawings have been objected to because of the following:

- a) FIGS. 3-11 fail to comply with 37CFR 1.84(m) because solid black shading is not permitted unless used to represent a bar graph or color. The shading in FIGS. 3-11 does not aid in understanding the invention.
- b) FIG. 3 fails to comply with 37CFR 1.84(u)(1) because it depicts two views that are not numbered separately. The lower half of the figure is disclosed as the screen that is displayed if the "Car" button is selected on the screen depicted at the upper half of the figure.
- c) They fail to comply with 37CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: "66" (P.15, L.7).
- d) The drawings are objected to under 37CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore:

- i) the four means-plus-function elements recited in claim 1;
- ii) the discernible indicia of a schedule conflict between the appointment with a service provider and the service receiver's schedule, as recited in claim 17;
- iii) the discernible indicia comprising a visual display, as recited in claim 18;
- iv) the discernible indicia comprising an audible signal, as recited in claim 19;
- v) the inputting means receives and updates a service provider's personal schedule, as recited in claim 21;
- vi) indicia of a schedule conflict between a business schedule that conflicts with the service provider's personal schedule, as recited in claim 22;
- vii) the step of providing service receivers with the ability to schedule standby appointments for appointment times already reserved, as recited in claim 39;
- viii) the step of providing service receivers with a message if said previously reserved appointment period becomes available, as recited in claim 40;
- ix) the step of providing a discernible indication if a service receiver attempts to schedule a conflicting appointment, as recited in claim 42;
- x) the step of providing a discernible indication if a service provider attempts to schedule a conflicting appointment, as recited in claim 43; and,
- xi) the step of inputting a schedule for a person other than the service receiver, as recited in claim 44,

must be shown or the feature(s) canceled from the claim(s).

In response to the above-referenced objections to the drawings, corrected drawing sheets in compliance with 37CFR 1.121 (d) are attached as replacement sheets. Each replacement sheet is labeled "Replacement Sheet" in the page header (as per 37CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. All Figures referenced below are Figures in the Replacement Sheets. Kindly note the following:

- a) The solid black shading has been removed from all Figures.
- b) With reference to Figure 3, the banner containing the various category buttons (e.g., the Car button) at the top of the screen appears on all screens. When the Car button is selected, the lower half of the Figure shown in FIG. 3 is displayed along with the banner at the top of the screen. As the top and lower halves of the screen are integral parts of the same screen, they should not be numbered separately.
- c) Reference character 66 is clearly shown in FIG. 6.
- d) Claims 1, 17, 18, 19, 21, 22, 39, 40, 42, 43 and 44 have been canceled and/or amended and the pending claims do not recite the previously claimed features allegedly omitted from the drawings.

Abstract Objection

In the Office Action, the abstract of the disclosure has been objected to because it contains more than one paragraph. Applicant has amended the abstract by deleting the second paragraph and incorporating statements from the second paragraph into the first paragraph.

Specification Objection

In the Office Action, Page 16, line 11 of the specification has been objected to on the ground that Johnny should be John (see FIG. 7). Applicant maintains that the change is unwarranted because the specification and Figure 7 consistently refer to "Johnny" not "John."

Claim Objections

In the Office Action, Claims 12, 13, and 30 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant has amended the claims to place them in proper dependent form.

In the Office Action, Claims 26-44 and 46 are objected to because the preamble of claims 26-44 and 46 is inconsistent with that recited in claim 25. Claims 26, 39, 45 and 46 have been cancelled and the remaining claims have been amended and contain a consistent preamble in proper dependent form.

In the Office Action, the examiner noted that claim 7 depends upon claim 4 and is separated therefrom by claims 5 and 6; claim 23 depends upon claim 16 and is separated therefrom by claims 21 and 22. Claims 7 and 23 have been amended to depend upon immediately adjacent preceding claims.

In the Office Action, Claims 25-44 and 46 are rejected under 35 U.S.C. 101 as being directed to nonstatutory subject matter. Claims 26, 39 and 46 have been cancelled. The remaining claims have been amended to properly recite method steps and limitations thereto, which is statutory subject matter.

In the Office Action, Claims 1-10 and 12-46 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. According to the examiner, the claims contain subject matter that was not adequately described in the specification. Claims 14, 15, 26, 39, 45 and 46 have been cancelled. The remaining claims have been amended to remove the subject matter objected to by the examiner.

In the Office Action, Claims 45 and 46 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Claims 45 and 46 have been cancelled.

In the Office Action, Claims 3, and 25-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 26, 39, 45 and 46 have been cancelled. The remaining claims have been amended to more clearly point out and distinctly claim the subject matter which applicant regards as the invention.

In the Office Action, Claims 1-9, 13, 14, 16, 17, 20, 24-28, 31-39, 42, 43, 45, and 46 of the subject application were rejected under 35 U.S.C. 102(b) as being anticipated by Whyel (US-2001/0027481), which was filed February 8, 2001 and published October 4, 2001; Claims 10, 12, 15, 18, 19,40, and 41 were rejected under 35U.S.C. 103(a) as being unpatentable over Whyel (US-2001/0027481); Claims 21, 22, 29 and 30 were rejected under 35 U.S.C. 103(a) as being

unpatentable over Whyel (US-2001/0027481) in view of Huemoeller (US-5855006); and Claims 23 and 24 were rejected under 35U.S.C. 103(a) as being unpatentable over Whyel (US-2001/0027481) in view of Raskin (article, Have your calendar call mine). These rejections based upon Whyel cannot be sustained in view of Applicant's entitlement to the benefit of priority of prior Application Serial No. 09/452,573.

Whyel (US-2001/0027481), an abandoned application, was filed February 8, 2001, based upon a provisional application filed on February 9, 2000, and was published on October 4, 2001. As Whyel (US-2001/0027481) was previously published under 35 U.S.C. 122(b), it is available as prior art under 35 U.S.C. 102(a) and 102(b) as of its patent application publication date (i.e., October 4, 2001) because the patent application publication is considered to be a "printed" publication within the meaning of 35 U.S.C. 102(a) and 102(b). See MPEP § 901.02. Additionally, as described in MPEP § 901.03, Whyel (US-2001/0027481) may be available as prior art under 35 U.S.C. 102(e) as of February 9, 2000, the earliest possible effective U.S. filing date of the published application.

Applicants filed U.S. Patent Application Serial No. 09/452,573 on December 1, 1999. During the prosecution of U.S. Patent Application Serial No. 09/452,573, Applicant filed the subject continuation application serial no. 10/731,195. In a decision on a "Petition For Acceptance Of An Unintentionally Delayed Claim For Priority Under 37CFR 1.1 7(t)," the Office of Petitions and PCT Legal Administration determined that Applicants are entitled to claim the benefit of priority of prior Application Serial No. 09/452,573. Thus, under 35 U.S.C. 120, Applicant's subject application is entitled to the benefit of the

filing date of the prior application which meets the requirements of continuity of disclosure, copendency, cross-referencing, and identity of inventorship.

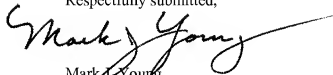
Consequently, the refusals under 35 U.S.C. 102(b), 103(a) based in whole or in part on Whyel (US-2001/0027481) cannot be sustained because Applicant's subject application is entitled to the benefit of the filing date of the prior application (December 1, 1999) and Whyel (US-2001/0027481) is not prior art.

CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, all pending claims are in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark A. Young", with a long, sweeping horizontal line extending to the right.

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Attachments:

Replacement Drawing Sheets in compliance with 37CFR 1.121 (d)

Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(B)